

## **CITY COUNCIL AGENDA MEMORANDUM**

### **SUBJECT**

Ordinance No. 6680 to vacate a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE.

### **FISCAL IMPACT**

This right-of-way is classified as Class I right-of-way, per BCC 14.35.120. Compensation shall be at 100% of its fair market value, per BCC 14.35.130, which is estimated at approximately \$286,970. The final compensation amount would be determined by an appraisal completed by an independent outside appraiser. If the ordinance is approved and the petitioner finalizes the transaction, this revenue would be receipted into the Land Purchase Revolving Fund. Expenditures from the Land Purchase Revolving Fund are limited to purchases of land and rights-of-way needed for future public purposes.

The remaining fees are \$1,100 for the post-hearing fee and a deposit of \$1,500 for the appraisal fee, which petitioner would pay upon approval of this ordinance. Additional fees may apply if appraisal costs exceed the standard appraisal fee.

### **STAFF CONTACT**

Nora Johnson, Director, 452-4167  
Patti Ebert, Sr. Real Property Agent, 452-5203  
*Civic Services Department*

David Berg, Director, 452-6468  
*Transportation Department*

### **POLICY CONSIDERATION**

#### **Bellevue City Code Section 14.35.070:**

Requires that Council hold a public hearing to consider the vacation, to hear any person wanting to speak for or against the vacation, and to pass an ordinance accomplishing the vacation, if appropriate. Staff will gather information and prepare findings to assist the Council in the discussion of the vacation.

Following the hearing, the Council shall determine:

- a. Whether a change of use or vacation of the described portion will better serve the public good; or
- b. Whether the street or portion thereof is no longer required for public use; or
- c. Whether the use thereof as a public way is of such benefit as not to justify the cost of maintenance;  
or
- d. Whether the substitution of a new and different thoroughfare would be more useful to the public; or
- e. Whether conditions may so change in the future as to provide a greater public use or need than presently exists; and
- f. Whether objections to the proposed vacation are made by owners of private property (exclusive of the petitioners) abutting the same.

**Bellevue City Code Section 14.35.090:**

“The Council may, by ordinance and subject to provisions of this code regarding payment of compensation, vacate such street, alley or part thereof reserving to the City an easement or the right to exercise and grant easement vacated land for the construction, repair and maintenance of public utilities and services and may impose such other conditions or limitations as it deems necessary and proper to preserve any desired public use or benefit.”

**DIRECTION NEEDED FROM COUNCIL:**

<u>  X  </u>	Action
<u>     </u>	Discussion
<u>     </u>	Information

**BACKGROUND**

On May 1, 2012 the City received a sufficient street vacation petition signed by property owners of two-thirds of the land abutting a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE. The sufficiency of the petition, as required by City Code, has been established. On September 17, Council approved noticing a public hearing on the requested street vacation, which was held on October 15, 2012.

**Site Description/Vacation Request:**

The NE 28<sup>th</sup> Street right-of-way between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE was dedicated to the County, and came under City control upon incorporation, in the Burke & Farrar’s Kirkland Addition Plat, February 4, 1914 as public right-of-way. It is 30 feet wide and is located in a single-family neighborhood. The area to be vacated (approximately 28,697 square feet) is adjacent to property currently owned by the petitioner (on both sides), The Little School, who operates their school at 2812 116<sup>th</sup> Avenue NE. Vacating this right-of-way would create a contiguous ownership of the Little School’s three parcels (see vicinity map).

Earlier this year, the Little School began work on a new parking area located on their parcel to the south of the City’s right-of-way. The purpose of the new parking area is to create a safer traffic pattern during high volume drop off and pick up times, thus alleviating overflow backups onto 116<sup>th</sup> Avenue NE. Unfortunately, the school did not request permits for any of the work completed on the site. Code Enforcement subsequently issued a stop work order as they did not have clear and grade or storm drainage permits to do the work. Any future site changes would be required to comply with applicable policies and regulations of the City.

Staff requested that the school administration submit a Development Services Application to allow a complete review of the situation. During this review, City staff realized that the school was using the right-of-way for internal circulation between their parcels. Staff told the school’s representative that they needed to lease the right-of-way due to their intensive use of it. The school administration decided to pursue a street vacation to own the right-of-way rather than leasing it. The City agreed to give them additional time to obtain their clear and grade and storm permits, while the street vacation request was before Council for decision.

If the vacation is approved, The Little School would own the vacated right-of-way and it may provide them more flexibility to redesign their access and parking. Regardless of the vacation process, the school will be required to relocate the new parking area to the north. The parking is currently located in a required 75-foot buffer area meant to mitigate the placement of a more intense use adjacent to single

family zoning districts. This requirement comes from the Comprehensive Plan and is noted in the Bridle Trails Subarea Plan (Policy S-BT-44). The area will be required to be returned to its original condition via the code enforcement process. Additional parking may be considered east of their existing school buildings, and is not dependent upon the vacation process. If the vacation is denied, their property will remain divided by right-of-way which would require the Little School administration to either lease the right-of-way from the City or stop using it to cross between their parcels.

Neighboring properties to the east of the Little School, also adjacent to this undeveloped right-of-way, have been contacted and, at this time, they are not interested in pursuing the vacation of the remainder of the right-of-way but indicated a desire to possibly do so at some time in the future.

#### Staff Analysis of Vacation Request:

Seven City departments reviewed and commented on the current vacation request, consisting of Utilities, Transportation, Fire, Parks, Police, Development Services and Planning and Community Development. They recommended approving the street vacation, with reservation of an easement for pedestrian and other non-motorized uses and a utilities easement for any existing public utilities. Puget Sound Energy has requested that they be allowed ample time to obtain their own easement for existing overhead facilities from the petitioner should this area be approved for vacation.

#### Public Hearing:

A public hearing was held on October 15, 2012. The public hearing was advertised in the newspaper of record, posted by the City Clerk in the required places and posted at the property. Notices were sent to residents within a 300-foot radius of the proposed vacation. At the hearing public comment was given by the Head of School and the President of the Board of Trustees of The Little School. No other public comment was made. Council's questions regarding the street vacation were answered by staff at that time. At the conclusion of the hearing, Council directed staff to bring forward an ordinance to vacate this right-of-way.

#### **EFFECTIVE DATE**

If approved, this Ordinance would become effective upon payment by petitioner of appraised value and recording of both the Declaration of Vacation and Certified Copy of Ordinance.

#### **OPTIONS**

1. Adopt Ordinance No. 6080, vacating a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE.
2. Do not adopt Ordinance No. 6080, vacating a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE. The City would retain ownership of the aforementioned right-of-way.

#### **RECOMMENDATION**

Adopt Ordinance No. 6080, vacating a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE.

#### **MOTION**

Move to adopt Ordinance No. 6080, vacating a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE.

**ATTACHMENTS**

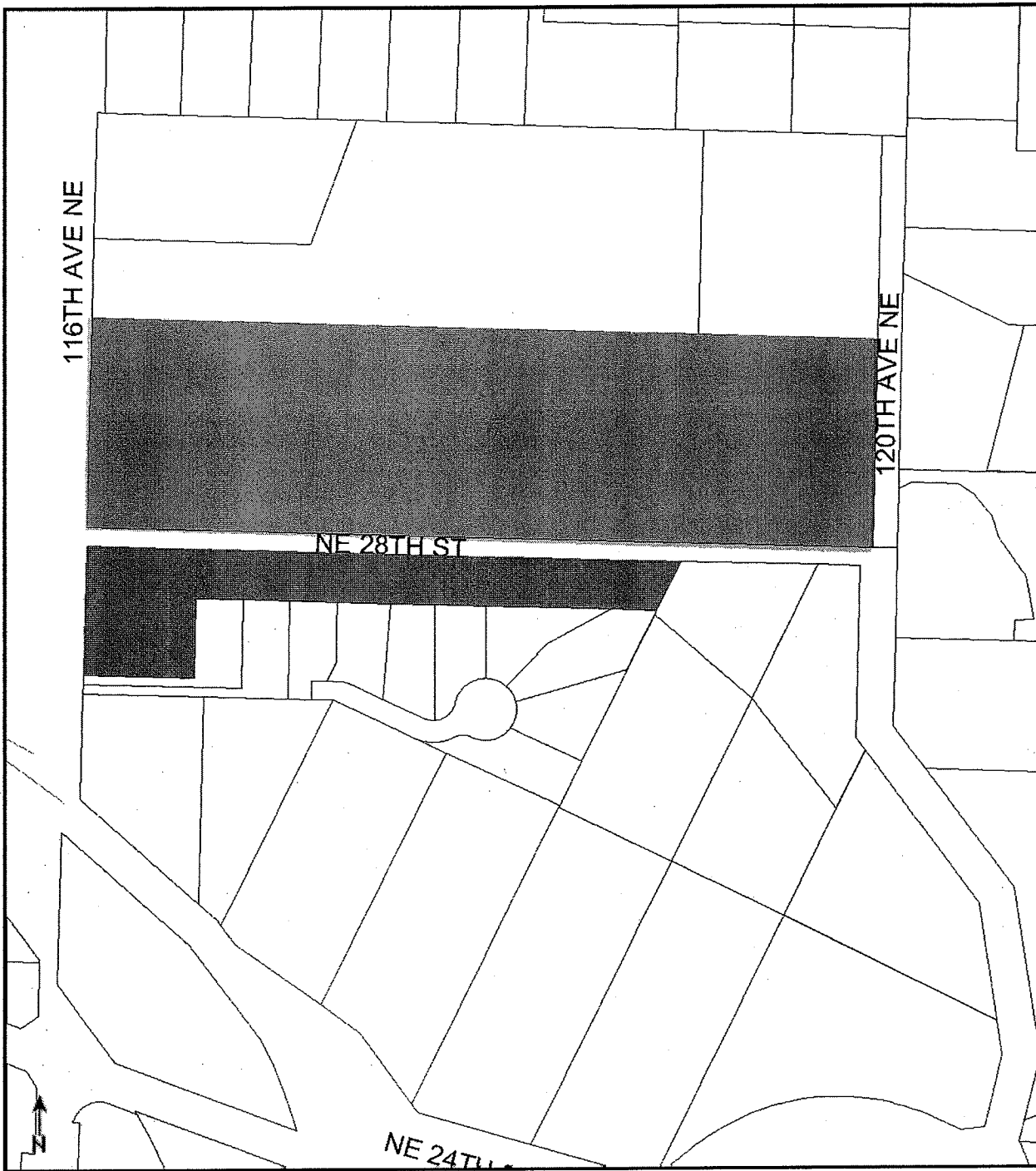
Vicinity Map

Site Location Map

Proposed Ordinance No. 6080

**AVAILABLE IN COUNCIL OFFICE**

Copy of the Petition to Vacate Streets



City of Bellevue  
Information Technology  
Geographic Information Services  
August 30, 2012

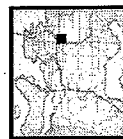
#### Vicinity Map

### The Little School Proposed Street Vacation

This map is derived from the Bellevue Geographic Information System and designed for City staff use. It is not guaranteed accurate.

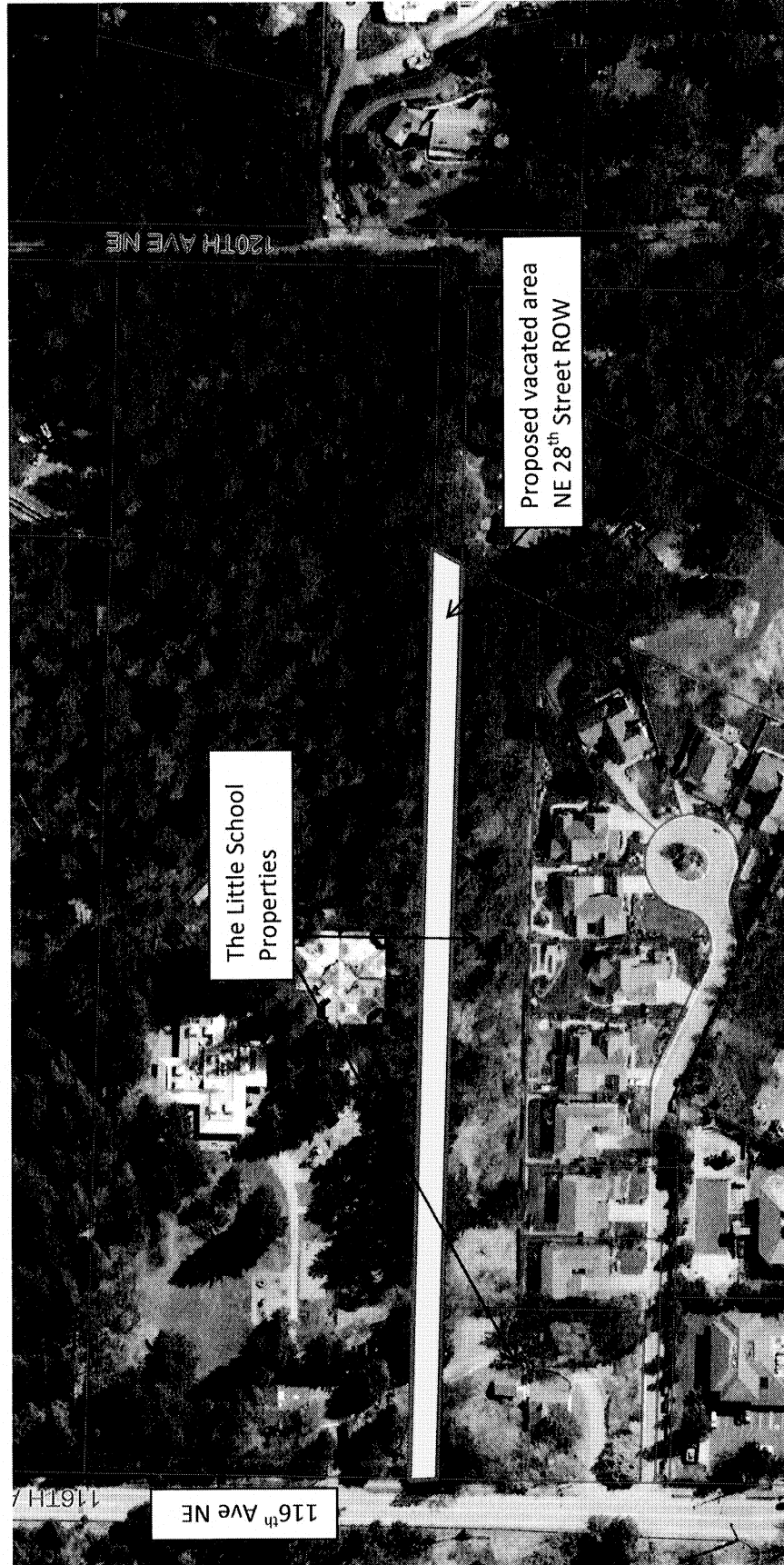
If you have specific questions regarding this map, contact the department shown.

-  Site
-  Park
-  School



VICINITY MAP

**The Little School**  
**Proposed Street Vacation – NE 28<sup>th</sup> Street**



CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6080

AN ORDINANCE determining the public advantage of vacating portions of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE, within the City of Bellevue and vacating the same, subject to certain conditions.

WHEREAS, on May 1, 2012 the City received a street vacation petition signed by property owners of two-thirds of the land abutting a portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE within the City of Bellevue; and,

WHEREAS, on September 17, 2012, the City Council passed Resolution No. 8445 fixing the time and place for a hearing to consider the vacating the portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE that was the subject of the petition and gave notice of said hearing by posting and mailing in the manner required by law; and

WHEREAS, investigation was made as to the use of said street and the public interests served or damaged by the change in such use by the vacation thereof; and

WHEREAS, a hearing was held upon said petition on October 15, 2012, at the time and place fixed in the resolution and notice; and

WHEREAS, only the petitioner's representative spoke at the hearing and following said hearing, the City Council by motion directed staff to proceed with the preparing legislation to approve vacation of said portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE; and

WHEREAS, said vacation would serve the public good; and

WHEREAS, said vacation will be subject to the reservation of necessary franchise and utility easements; and

WHEREAS, said vacation, as a Class I right of way, is subject to payment of compensation in accordance with Section 14.35; and

WHEREAS, as Class I right-of-way, per BCC 14.35.130, compensation shall be at 100% of its fair market value; and

WHEREAS, the final compensation amount shall be determined by an appraisal completed by an independent outside appraiser; and

WHEREAS upon approval of this ordinance, petitioner shall be required to pay \$1,100 for the post-hearing fee and a deposit of \$1,500 for the appraisal fee; and

WHEREAS, additional fees may apply if appraisal costs exceed the standard appraisal fee; and

WHEREAS, upon approval of this ordinance and finalization of the transaction, any revenue received as a result of this transaction will be receipted into the Land Purchase Revolving Fund; and,

WHEREAS, upon completion of the transaction the parties shall execute a Declaration of Vacation; and

WHEREAS, upon fulfillment of all other conditions established herein for such vacation, such street or portions thereof shall be vacated and the City Clerk is directed to have this ordinance and Declaration of Vacation recorded with the King County Office of Elections and Records and to take any other action necessary to vacate such streets or portions thereof; now, therefore,

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The portion of NE 28<sup>th</sup> Street between 116<sup>th</sup> Avenue NE and 120<sup>th</sup> Avenue NE, in the City of Bellevue as described in attached Exhibit A, is hereby vacated, subject to the fulfillment of all conditions set forth in Section 2 of this ordinance.

PROVIDED; however, that the City of Bellevue reserves the right to an easement over the vacated area for franchises and utilities.

Section 2. This vacation shall become effective upon the following conditions:

- a) Petitioner shall pay compensation in the amount of 100% of fair market value for the right-of-way.
- b) The final compensation amount shall be determined by an appraisal completed by an independent outside appraiser.
- c) Petitioner shall be required to pay \$1,100 for the post-hearing fee and a deposit of \$1,500 for the appraisal fee, as well as, any additional fees which may apply if appraisal costs exceed the standard appraisal fee.
- d) Any revenue received as a result of this transaction will be receipted into the Land Purchase Revolving Fund.
- e) The parties shall execute and record a Declaration of Vacation.

Section 3. The City Clerk is directed to record a certified copy of this ordinance and the Declaration of Vacation with the King County Department of Records and Elections and the City Manager or his designee is directed to take any



other action necessary to vacate such street or portion thereof upon evidence of satisfactory completion of all conditions of such vacation Including, but not limited to, reservation of franchise and utility easements and payment of costs of acquisition services needed to convey title.

Section 4. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2012  
and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_,  
2012.

(SEAL)

\_\_\_\_\_  
Conrad Lee, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
Jerome Y. Roaché, Assistant City Attorney

Attest:

\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published \_\_\_\_\_